

## **REMARKS**

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 5-8, 10, 12, and 13 have been canceled.

New claims 14-19 have been added.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-4, 9, 11, and 14-19 are now pending in this application.

### **Rejection under 35 U.S.C. § 112**

Claim 11 is rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Applicant respectfully submits that the amendments to the claims render this rejection moot. Reconsideration and withdrawal of this rejection is respectfully requested.

### **Rejections under 35 U.S.C. §§ 102, 103**

Claims 1, 4, 5, 9-11, and 13 are rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by U.S. Patent No. 6,494,286 to Shimizu *et al.* (hereafter "Shimizu"). Claims 2, 3, and 7 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Shimizu. These rejections are respectfully traversed.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See generally MPEP § 2131.

Shimizu discloses a vehicle with a mount for a fuel cell system that includes a motor 1 that is fixed to a vehicle body frame 6 by a first mount member 3, a second mount member 4, and a third mount member 5. See Shimizu at col. 3, line 57, to col. 4, line 3, and Figure 1 and 4. The apparatus further includes an air compressor 10 and an air compressor driving motor 11 attached to the motor 1. See Shimizu at col. 4, lines 17-19.

However, Shimizu does not disclose a drive motor mounting structure of an electric vehicle comprising, among other things, a drive motor unit, wherein a front part of the driver motor unit is attached to the vehicle body member by at least one front motor mount disposed in front of the driver motor unit, as recited in claim 1. Claims 2-4, 9, and 11 depend from claim 1.

As noted by the Office on page 3 of the Office Action, and as shown in Figures 1-3 of Shimizu, the second mount member 4 is located to the rear of the motor 1 in regard to a front portion of a vehicle. However, as shown in Figures 1-3 of Shimizu, the first mount member 3 and the third mount member 5 are located to lateral sides of the motor 1, while the second mount member 4 is located behind the motor 1 in relation to a front of a vehicle that the motor 1 is mounted in. Thus, Shimizu does not disclose or suggest a drive motor mounting structure of an electric vehicle in which a front part of the driver motor unit is attached to the vehicle body member by at least one front motor mount disposed in front of the driver motor unit, as recited in claim 1.

The Office argues on page 3 of the Office Action that the second mount member 4 is a rear motor mount that is disposed above a front motor mount, such as the first mount member 3 or the third mount member 5, citing Figures 1 and 4 of Shimizu. Applicant respectfully disagrees. Figure 1 is a top view of the mount assembly of Shimizu, which provides no indication of the second mount member 4 being disposed above the first mount member 3 or the third mount member 5. Figure 4 is an exploded view at an angle without vehicle body frame 6, which also provides no indication of the second mount member 4 being disposed above the first mount member 3 or the third mount member 5. Shimizu is silent in regard to the second mount member 4 being disposed above the first mount member 3 or the third

mount member 5. Thus, Shimizu does not disclose or suggest a rear motor mount disposed above the at least one front motor mount, as recited in claim 1.

The Office notes on page 4 of the Office Action that Shimizu does not disclose or suggest the relative strengths of the mount members 3, 4, 5 but argues that it would have been obvious to modify the relative strengths of the mount members 3, 4, 5 to provide at least one front motor mount that has a strength higher than that of a rear motor mount, as recited in claim 1. However, the Office provides no evidence or findings of fact in the prior art to support this argument.

The Office appears to take Official Notice in regard to the feature of at least one front motor mount having a strength higher than that of a rear motor mount, as recited in claim 1. Applicant notes that the invention of claim 1, including the feature of at least one front motor mount having a strength higher than that of a rear motor mount, advantageously provides an arrangement in which an impact can be received, causing a rear motor mount to preferentially break due to the higher strength of an at least one front motor mount and the location of the rear motor mount above the at least one front motor mount, which cause forces to be distributed more toward the rear motor mount. The front motor mount may then rotatably support a drive motor unit to allow the drive motor unit to rotate downward and around the at least one front motor mount, as shown in the example of Figure 7 of Applicant's application.

Applicant submits that this features is not commonly known or disclosed in the prior art, as evidenced by the deficiencies of Shimizu. Applicant respectfully requests that the Office provide prior art to show these features or withdraw the rejection. See M.P.E.P. § 2144.03.

For at least the reasons discussed above, Shimizu does not anticipate or render obvious claims 1-4, 9, and 11 because Shimizu fails to disclose or suggest all of the features of claim 1. Reconsideration and withdrawal of this rejection is respectfully requested.

#### **New Claims**

New claims 14-19 have been added.

Claim 14 recites a drive motor mounting structure of an electric vehicle comprising a drive motor unit attached to a vehicle body member and a side member in a front part of a vehicle, wherein a front part of the drive motor unit is attached to the side member by at least one front motor mount, wherein a rear part of the drive motor unit is attached to the vehicle body member by a rear motor mount disposed below the front motor mount, wherein the at least one front motor mount has a strength higher than that of the rear motor mount, wherein the at least one front motor mount supports the front part of the driver motor unit so as to allow the drive motor unit to move downward relative to the at least one front motor mount, and a rigid robust member configured to generate a force to move the drive motor unit downward relative to the at least one front motor mount, wherein the rigid robust member is disposed in front of and obliquely above the drive motor unit, and above and in front of the at least one front motor mount. Claims 15-19 depend from claim 14.

Applicant respectfully submits that Shimizu does not disclose or suggest all of the features of claim 14. For example, Shimizu does not disclose or suggest at least that the second mount member 4 is located below the first and third mount members 3, 5, that an at least one front motor mount has a strength higher than that of a rear motor mount, and wherein the at least one front motor mount supports a front part of a driver motor unit so as to allow the drive motor unit to move downward relative to the at least one front motor mount, as recited in claim 14.

### **Conclusion**

Applicant submits that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or

even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

APR 23 2009

Date \_\_\_\_\_

By 

FOLEY & LARDNER LLP  
Customer Number: 22428  
Telephone: (202) 295-4011  
Facsimile: (202) 672-5399

Glenn Law  
Attorney for Applicant  
Registration No. 34,371

Kevin McHenry  
Attorney for Applicant  
Registration No. 62,582